TESTIMONY OF

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on

The North American Free Trade Agreement And Crossborder Truck and Bus Operations

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INTRODUCTION

Good morning Mr. Chairman and Members of the Committee. My name is Peter J. Pantuso and I am President and CEO of the American Bus Association. Thank you for the opportunity to testify on the impact of the North American Free Trade Agreement on motorcoach transportation.

ABA is the trade organization of the intercity bus industry with more than 3,400 member motorcoach operator, tour and travel organizations and suppliers to the industry in the United States and Canada. We are currently celebrating our 75th year of service to the industry. Buses in the United States transport over 774 million passengers annually – over 200 million more than airlines and more than double Amtrak and commuter rail. We serve more than 4,000 communities and log more than 2.6 billion miles annually.

We are the safest mode of commercial passenger transportation with the lowest fatality rate per 100 million passenger miles traveled. According to the National Safety Council's Injury Facts reporting on a period from 1995 – 1997, U.S. motorcoach travel averaged .01 passenger fatalities per 100 million passenger miles compared to .04 passenger fatalities for both rail and air travel for the same period and the same number of passenger miles. The industry strongly believes that even a single fatality is one too many and we continue to look for ways to further improve safety. Motorcoach operators and manufacturers themselves accomplished this safety record in large part through their own efforts to promote the highest standards of safe design and operation and vigilant compliance to stringent safety regulation.

NAFTA AND MOTORCOACH OPERATIONS

I am here today to make you aware of motorcoach issues related to the implementation of motor carrier provisions of the North American Free Trade Agreement, or NAFTA. Although most commentary focuses on trucks, the fact is that there are unique and important bus issues that must be addressed.

ABA supports timely, safe and reciprocal implementation of NAFTA. However, we are concerned that the NAFTA implementation rules recently proposed by the Federal Motor Carrier Safety Administration of the Department of Transportation do not ensure reciprocity or safety in bus operations. Those proposals could open up U.S. markets to Mexican bus companies without limitation, notwithstanding the Mexican government's stated intent to limit U.S. bus companies' ability to own and operate Mexican terminals; to provide crossborder service to multiple points in Mexico and to carry incidental package express. Bus service is not viable with these limitations.

We are equally concerned by the gaps in the safety proposals. Unlike trucks, NAFTA authorizes Mexican motorcoach companies to set up U.S. subsidiaries to provide domestic U.S. bus service. DOT recognized that special procedures must be in place to ensure the safety of Mexican bus and truck operations, but without explanation, declined to apply those procedures to subsidiaries of Mexican motorcoach companies providing domestic U.S. service. Furthermore, there is little indication of a DOT program to ensure the safety of Mexican buses and bus operations. Indeed, existing border scrutiny of motorcoaches is sadly lacking.

The NAFTA surface transportation provisions are designed to eliminate restrictions in all three NAFTA countries that limit access for and investment in transportation companies. For buses, changes in access refer to lifting of crossborder restrictions on charter and tour buses, a provision that has already been implemented, and a reciprocal lifting of restrictions on regular route carriers which has yet to be implemented. In terms of new investment opportunities under NAFTA, the U.S. is to allow 100% investment in bus companies owned by Mexicans while Mexico is to allow 51% U.S. ownership of Mexican companies this year and 100% in January, 2004. Again, it is important to emphasize that unlike Mexican-owned U.S. trucking companies, which are limited to carrying international cargo, Mexican-owned U.S. bus companies will be allowed to provide both domestic and international service in the U.S.

THE MEXICAN BUS INDUSTRY

An ABA delegation of members and staff visited Mexico last month in order to gain a better understanding of the opportunities and challenges facing our members under NAFTA. I must say, frankly, that we were impressed with what we saw. Perhaps most extraordinary was the information provided by the Mexican Bus Association, CANAPAT, that passengers in Mexico took more than 3 billion bus trips last year alone. Over 92% of the Mexican population rides the bus for intercity trips at least once per year. A number of companies operate more than 4,000 motorcoaches. This is no small business in Mexico.

We were impressed with the facilities we visited in Mexico City. Mexican bus companies operate out of centralized bus terminals that compare favorably to many airports in the U.S. with comfortable waiting areas, well-established gates, electronic ticketing, pre-boarding security procedures, shopping, and friendly, convenient and abundant service. Again, this is a significant industry. Clearly people in Mexico have realized that bus service is an affordable and common-sense alternative when road congestion and environmental concerns are at issue. Bus service connects the most rural towns with Mexico City and other metropolitan areas and with other villages.

Several things were made clear to us during that trip. Mexico represents a large market of people that rely heavily on bus service. Mexican bus companies pay lower wages to their workers than U.S. bus companies but have considerably less access to capital than their neighbors to the north. Partnerships make sense between U.S. and Mexican bus companies given these conditions as a backdrop and some of these partnerships are already in place.

However, I must emphasize that we also learned that there are important differences between the U.S. motorcoach industry and the Mexican motorcoach industry. First, the magnitude of the difference in size of both the industry as a whole and the individual companies within the industry – 3 billion passenger trips by bus annually in Mexico versus 774 million in the U.S.; small fleets in the U.S. compared to large fleets in Mexico. And, perhaps most significantly, differences in vehicle safety standards and the way in which industry is regulated. For all these reasons, we must be able to rely on strong enforcement in the United States to ensure safe highways and to ensure a level playing field for U.S. operators.

We will work with the Mexican bus association in the months ahead to insure that they better understand the rules they must abide by in the U.S. in order to operate safely on our roads. We expect to learn from them, as well, regarding the rules of the road in Mexico. The reason that crossborder bus service works well along our northern border with Canada is because, to a large extent, Canada has adopted almost identical regulations for drivers, vehicles, hours of service and various other safety provisions.

The rules between the U.S. and Mexico, however, are not identical. So, for now, while we are in Mexico, we will operate under their rules and when they are in the U.S., they will be expected to operate under U.S. rules. Eventually, given the proper authority and necessary resources, the NAFTA Land Transport Standards Subcommittee (a NAFTA working group including government regulators from all three NAFTA countries), working with groups like

ABA and the Commercial Vehicle Safety Alliance, should be able to bring those rules into closer alignment to the benefit of us all. But in the meantime, it is of utmost importance that enforcement officials are vigilant in their efforts to ensure that all motorcoach companies operating on U.S. roads comply with U.S. highway safety rules.

ENFORCEMENT OF MOTORCOACH SAFETY

Following our visit to Mexico City, our group traveled to the U.S.-Mexico border to see the Veteran's Bridge (one of four border crossing bridges in Brownsville) to meet with U.S. Customs officials. Over 350 buses cross that border point every week over the Veterans Bridge. Customs inspects all of those buses for drugs or other forms of contraband and the Immigration & Naturalization Service (INS) reviews passenger documentation. However, we were told that although the U.S. Department of Transportation inspectors inspects trucks daily, they only inspect buses one day per month. That means that, on that one bridge alone, more than 1,300 of the over 1,400 buses crossing monthly go uninspected by DOT. This concerns us greatly.

It seems that somewhere during the highly-charged debate on NAFTA and trucking, the authorities forgot that buses carry passengers – not freight – across the border. It seems to us that we have a much greater stake in fair and effective enforcement than has been reflected in the dialog to date. The current practices need to change to assure passenger safety and the safety of the traveling public on the roads.

We are not suggesting that Mexican buses are unsafe, they are made by Dina, Volvo and Mercedes – all of whom supply the U.S. market. We are only suggesting that frequent inspections will assure compliance with U.S. Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carrier Safety Regulation (FMCSR) requirements and keep safety the number one priority.

ABA has several specific concerns relating to the safety regulatory framework recently proposed by DOT relating to full implementation of NAFTA crossborder access rules. The proposals fail to take into account that, unlike for trucks, the NAFTA bus provisions allow for domestic operations by Mexican-owned bus operations

In the recent rulemaking proposal, DOT proposes to establish a system of special application procedures and oversight for Mexican companies providing crossborder services. But they specifically exempt from those procedures and that oversight Mexican passenger carriers that establish U.S. subsidiaries to provide domestic service in the U.S. This creates a giant loophole – Mexican companies operating in crossborder service are subject to the special application procedures and oversight while Mexican companies operating domestically are not.

We urge DOT to modify its proposal to apply its proposed special safety procedures for crossborder carriers to Mexican owned, U.S.-based companies applying to provide domestic

U.S. bus service.

We also urge DOT to create a specific plan to ensure the safety of Mexican passenger motor carriers prior to finalizing their proposed rules and include the details of that plan in its decision promulgating the final rules.

The plan should address specific issues such as:

- Creation of an effective mechanism for preventing Mexican-manufactured buses that do no comply with the Federal Motor Vehicle Safety Standards or the Federal Motor Carrier Safety Regulations from entering the United States.

- Enforcement of rules relating to Mexican drivers providing passenger service in the U.S. The law requires that only U.S. citizens or resident aliens can provide domestic passenger service in the U.S. We believe that Mexican officials incorrectly interpret NAFTA as overturning this U.S. immigration law. DOT should work with INS to develop mechanisms to effectively enforce the immigration laws.

- DOT should also make clear that the proposed rules apply to both buses and commercial passenger vans carrying nine or more people in intercity service, including the driver. The department is expected to publish a final rule soon related to these "camioneta" operations that would increase these operators' safety compliance responsibilities – this should not fall through the cracks as the Department plans for the border opening.

RECIPROCITY WITH MEXICAN BUS COMPANIES

We also have a number of concerns in relation to market equity with Mexican bus operators. NAFTA requires that the implementation of the crossborder transportation provisions be executed in a reciprocal manner with both countries providing the same treatment to citizens of the other country. However, there are several ways in which Mexico appears to be taking positions contrary to that mandate.

Mexico has taken the position that it will grant cross-border service authority for U.S. carriers to serve only one point in Mexico; it will not allow U.S. carriers to own or operate bus terminals in Mexico; and it will not authorize those carriers to provide incidental package express service as part of its crossborder trips. DOT's proposals contain no such limitations. Mexican companies would be free to serve multiple U.S. points; could own and operate bus terminals wherever they like; and would be able to carry incidental package express on any of their schedules.

If DOT implements its crossborder service proposals without ensuring reciprocal treatment of U.S. companies in Mexico, it could devastate the U.S. bus industry, which is much smaller than the Mexican bus industry. We urge DOT to engage in discussions with its counterpart in

Mexico to determine what the terms and conditions of crossborder authority should be. Whatever terms and conditions are mutually agreed upon during those discussions should be implemented in the final rules.

CONCLUSION

We believe that NAFTA can be implemented fairly, safely and in a way that provides opportunities for bus operators and the customers we serve throughout North America. However, in order for this opportunity to be recognized, we are urging Congress and the Administration to work together with the Mexican government to ensure that the requests we have made which, we believe, will ensure the highest level of safety for the traveling public, are implemented with all due haste.

Thank you for the opportunity to testify today Mr. Chairman.